

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

TODD-HEDEEN INTERNATIONAL, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3554

Decision No. CU 1030

Counsel for claimant:

Milbank, Tweed, Hadley
& McCloy

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$214,690.00, was presented by the above-named claimant, based upon a debt assertedly due from an enterprise nationalized by the Government of Cuba. The members of the claimant corporation and predecessor partnership have been citizens of the United States at all times pertinent to this claim.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

An officer of the claimant corporation has certified that the claimant was organized in the State of Iowa and that at all times between the date of its incorporation and presentation of this claim on May 29, 1967, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant has submitted evidence that all stockholders were United States nationals.

The claim is based on engineering and supervisory services rendered to Compania Cubana Primadera, S.A., by Todd-Hedeen & Associates, a partnership, between 1958 and August 1, 1960. Upon the termination of the aforementioned partnership on November 1, 1965, the debt theretofore owed to Todd-Hedeen & Associates was transferred to TODD-HEDEEN INTERNATIONAL, INC. The Commission holds that claimant is the legal successor in interest to Todd-Hedeen & Associates.

The claimant contends and the record shows that Todd-Hedeen & Associates performed services for and was retained by Compania Cubana Primadera, S.A.

through August 1, 1960, for sums in the total principal amount of \$214,690.00. Compania Cubana Primadera, S.A. was incorporated under the laws of the Republic of Liberia. Compania Cubana Primadera, S.A. thus would not qualify as a national of the United States under Section 502(1) of the Act which defines the term "national of the United States" as including "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

The property of Compania Cubana Primadera in Cuba, was nationalized by the Government of Cuba on August 6, 1960, by Resolution No. 1 published in the Official Gazette on August 6, 1960, (pursuant to Law 851).

Claimant's predecessor in interest presented bills to Compania Cubana Primadera, S.A. in varying amounts on December 31, 1958, January 8, 1959, May 12, 1959, August 1, 1959, December 31, 1959, and August 1, 1960, \$214,690.00 of which remains due and unpaid. The record also contains an admission by the debtor company that this amount is owed to the claimant. Accordingly, it is concluded that claimant suffered a loss in the amount of \$214,690.00, within the meaning of Title V of the Act as a result of the nationalization of the property of Compania Cubana Primadera on August 6, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from August 6, 1960 to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that TODD-HEDEEN INTERNATIONAL, INC., succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended in the amount of Two Hundred Fourteen Thousand Six Hundred and Ninety Dollars (\$214,690.00) with interest thereon at 6% per annum from August 6, 1960, to the date of settlement.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

JAN 24 1968

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

This is a correct copy of the decision
of the Commission which was entered as the Final
decision on FEB 27 1968

Frank M. ...
Clerk of the Commission

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU- 3554